

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CLEINTE BUCKNER,

Plaintiff,

v.

Case No. 16-12684

KIMBERLY HARPER,

Defendant,

ORDER SUMMARILY DISMISSING COMPLAINT

In its Opinion and Order entered September 27, 2016, the court directed Plaintiff Cliente Buckner to show cause why his civil rights complaint should not be summarily dismissed for lack of subject matter jurisdiction. (Dkt. # 6.) The court ordered Plaintiff to respond by November 22, 2016. (*Id.*) Plaintiff filed his response on December 21, 2016, (Dkt. # 7), and did not explain his tardiness.

In any event, Plaintiff's filing does not show that the court has subject matter jurisdiction over this action. As the court explained in its prior opinion and order, Plaintiff cannot sustain a claim under 42 U.S.C. § 1983 against Defendant Kimberly Harper based on her allegations and testimony against them. (Dkt. # 6.) Plaintiff's other claims are state law claims that do not involve a substantial question of federal law. *See Ford v. Hamilton Inv., Inc.*, 29 F.3d 225, 278 (6th Cir. 1994). As a result, nothing in Plaintiff's complaint suggests that his case "arises under" federal law for the purposes of federal question subject matter jurisdiction. 28 U.S.C. § 1331. Neither does it appear to be

between citizens of different states, so the court lacks diversity jurisdiction as well. 28 U.S.C. § 1332.

Plaintiff's untimely response does not address these issues. Rather, Plaintiff's response simply restates his malicious prosecution claim and provides numerous citations to Oregon courts discussing Oregon law. (See Dkt. # 7.) Thus, the court concludes that it lacks subject matter jurisdiction over this action and, in light of its continuing obligation under Federal Rule of Civil Procedure 12(b)(1), the court must dismiss the case. Accordingly,

IT IS ORDERED that Plaintiff's complaint (Dkt. # 1) is DISMISSED for lack of subject matter jurisdiction.

s/Robert H. Cleland

ROBERT H. CLELAND

UNITED STATES DISTRICT JUDGE

Dated: January 17, 2017

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, January 17, 2017, by electronic and/or ordinary mail.

s/Shawna C. Burns

Case Manager Generalist

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